

## UNITED STATES DISTRICT COURT

Northern

District of

California

UNITED STATES OF AMERICA  
V.**JUDGMENT IN A CRIMINAL CASE**  
(For Organizational Defendants)

Shore Terminals LLC,

CASE NUMBER: CR-09-0395 SI

Marc Greenbert

Defendant Organization's Attorney

**THE DEFENDANT ORGANIZATION:**☒ pleaded guilty to count(s) One, Two, Three and Four of the Superseding Information☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18:1001(a)(3)	Making a False Statement	3/6/2009	1,2,3 & 4

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.☐ The defendant organization has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's  
Federal Employer I.D. No.: \_\_\_\_\_

Defendant Organization's Principal Business Address: \_\_\_\_\_

7/14/2009

Date of Imposition of Judgment

Signature of Judge

Susan Illston, U.S. District Judge

Name of Judge

Title of Judge

Date

Defendant Organization's Mailing Address: \_\_\_\_\_

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### PROBATION

The defendant organization is hereby sentenced to probation for a term of :  
Two years

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

### STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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### ADDITIONAL PROBATION TERMS

1) Shore Terminals shall make a community service payment of \$750,000.00 for the explicit goal of funding environmental projects and initiatives designed for the improvement of air quality in the Northern District of California, and, in particular, Contra Costa and Alameda counties, in the vicinity where the Selby terminal is located within 7 days of sentencing.

a) \$500,000.00 is payable to the National Fish & Wildlife Foundation. The monies shall be used specifically for the improvement of air quality in the Bay Area, and, in particular, Contra Costa and Alameda Counties, all located in the Northern District of California. The monies may be used for projects designed to improve air quality including the purchase of natural gas buses, contribution to local hazardous material emergency response centers, programs relating to asthma and other respiratory diseases, and other similar projects. Monies shall be accounted for to Congress in annual reports required by 16 U.S.C. Section 19n.

b) \$250,000.00 is payable to the Bay Area Clean Air Foundation for the purposes of improving air quality in the Bay Area, and, in particular, Contra Costa and Alameda Counties, all located in the Northern District of California. The monies may be used for projects designed to improve air quality, particularly in Contra Costa and Alameda Counties, through projects designed and implemented by the Bay Area Quality Management District. The defendant agrees that the payments will be made within 7 days of sentencing. Because the community service payments are designated as community service by organization, Shore Terminals further agrees that it will not seek any reduction in its tax obligations as a result of these community service payments. In addition, since these payments constitute community service, Shore Terminals will not characterize, publicize, or refer to these community service payments as voluntary donations or contributions.

2) The defendant shall not commit any violations of federal, state, or local law, including those laws and regulations for which primary enforcement has been delegated to state authorities, and shall conduct all its operations in accordance with the environmental laws of the United States.

3) Payments in full of the monetary amounts set forth herein including all special assessments, fines and restitution and community service.

4) The defendant shall develop, adopt, implement and fund the Environmental Compliance Plan ("ECP"). The defendant shall be responsible for all costs associated with the development, implementation, maintenance and monitoring of the ECP.

5) The defendant shall at all reasonable times and with the reasonable prior notice to the government as practicable, will provide the government with full access to the Selby terminal as appropriate within its security and its safety policies and practices, as well as facilities, employees, and records that are relevant to monitoring compliance with the terms and conditions of the ECP.

6) If Shore Terminals changes its name, the renamed company shall be obliged to meet all of the obligations of Shore Terminals under the plea agreement. If Shore Terminals merges with another company through a stock or asset purchase, the newly created or merged company shall be obliged to meet all of the obligations of Shore Terminals under the plea agreement with regard to the Selby Terminal managed by Shore Terminals on the date of the merger is finalized.

DEFENDANT ORGANIZATION: Shore Terminals LLC,  
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The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 1,600.00	\$ 1,750,000.00	\$ 0.00

- ☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss*	Restitution Ordered	Priority or Percentage

<b>TOTALS</b>	\$ 0.00	\$ 0.00
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- ☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- ☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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### SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 1,600.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☒ in accordance with ☐ C or ☐ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☒ D below); or
- C ☐ Payment in \_\_\_\_\_ (e.g., equal, weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
- 1) The defendant shall pay the fine within 7 days of sentencing.
  - 2) The defendant is to pay the community service payment within 7 days of sentencing.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.